



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2023-0095; FRL-10844-01-OW]

### Proposed Information Collection Request; Comment Request; Clean Water Act Water Quality Certification

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), “ICR Supporting Statement Information Collection Request for Clean Water Act Water Quality Certification” (EPA ICR No. 2603.07, OMB Control No. 2040-0295), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of an ICR (OMB Control No. 2040-0295), which is currently approved through July 31, 2023. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Submit your comments, referencing Docket ID No. **EPA-HQ-OW-2023-0095**, online using [www.regulations.gov](https://www.regulations.gov) (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Liana Prudencio, Oceans, Wetlands, and Communities Division, Office of Wetlands, Oceans, and Watersheds, (MC 4504T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (202) 564-3351; email address: cwa401@epa.gov.

**SUPPLEMENTARY INFORMATION:**

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at [www.regulations.gov](http://www.regulations.gov) or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. EPA will then submit the final ICR package to OMB for review and approval. At that time, EPA will issue another Federal Register notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* This ICR describes the cost and burden associated with 40 CFR part 121, the regulations that implement Clean Water Act (CWA) section 401. Under section 401, a Federal

agency may not issue a permit or license that may result in any discharge into waters of the United States unless the certifying authority where the discharge would originate issues a section 401 water quality certification verifying that the discharge will comply with certain water quality requirements or waives the certification requirement. Certifying authorities are states, tribes with treatment as a state (TAS) authorization, and in limited circumstances, EPA. CWA section 401 requires project proponents to submit project-specific information to certifying authorities. Certifying authorities may act on project-specific information by either granting, granting with conditions, denying, or waiving section 401 certification. To demonstrate it has acted on the certification request, the certifying authority must provide a decision document to the relevant federal licensing or permitting agency. If the certifying authority fails or refuses to act on a certification request within a reasonable period of time (which shall not exceed one year) after receipt, the requirement to obtain certification is waived. EPA is also responsible for coordinating input from certain neighboring or downstream states and tribes affected by a discharge from a federally licensed or permitted project under section 401(a)(2). Information collected directly collected by EPA under section 401 in support of the section 402 permit program is already captured under an existing ICR (OMB Control Number 2040-0004, EPA ICR Number 0229.22) and therefore is not included in this analysis.

*Form Numbers:* None.

*Respondents/affected entities:* Project proponents, State and tribal reviewers (certifying authorities).

*Respondent's obligation to respond:* required to obtain 401 certification (33 U.S.C. 1341(a)(1)).

*Estimated number of respondents:* 154,000 responses from 77,138 respondents annually.

*Frequency of response:* one per Federal application.

*Total estimated burden:* 860,500 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* \$48 Million (per year), includes \$0 annualized capital or operation and maintenance costs.

*Changes in Estimates:* There are changes in the total estimated respondent burden, number of respondents, and number of responses compared with the ICR currently approved by OMB (OMB Control No. 2040-0295).

**Brian Frazer,**  
*Acting Director,*  
*Office of Wetlands, Oceans, and Watersheds,*  
*Office of Water.*

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